

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1082

IN THE MATTER OF:

Served August 13, 1970

Application of WMA Transit )  
Company for Authority to )  
Increase Fares. )

Application No. 612

Docket No. 215

On March 9, 1970, WMA Transit Company (WMA) filed its WMATC Tariff No. 31 setting forth new increased regular route fares. After notice and extensive public hearings, we issued Order No. 1049 on June 17, 1970, which rejected WMA's proposed Tariff No. 31, based on the determination that the revenues which would be produced by the proposed rate structure would be far in excess of what WMA was entitled to under Article XII, Section 6(a) of the Compact. On the record before us it was apparent, however, that WMA would in fact need increased revenues in its future annual period, and we authorized a fare structure which would enable WMA to earn a fair and reasonable return. WMA filed revisions to its Tariff No. 31 to comply with the fare levels we authorized, which Tariff then became effective June 20, 1970.

On July 14, 1970, WMA submitted a petition for reconsideration in which it alleged that Order No. 1049 was erroneous for five reasons.

Petitioner brings one procedural and four substantive issues to our attention. Petitioner alleged we erred in permitting a low rate of return due to WMA's service deficiencies. It also alleged the Commission erred in concluding that the authorized rates would produce a reasonable return. Petitioner cited as error the disallowance of deferred maintenance expenses. Finally, WMA charged that the Commission failed to allow for interest payments on leased buses.

We reaffirm Order No. 1049 with respect to all four of these substantive issues. Having dealt with WMA's application for a fare increase on an expedited basis, and having a large number of proceedings requiring extensive Commission attention, we are unable at this time to set forth fully in written form the basis on which we reached our decision on these issues. We have fully considered each of the issues raised in the petition for reconsideration however, and a detailed statement of our reasoning will be published as soon as possible.

The procedural error alleged by WMA was that Order No. 1049 was based "in large measure" on exhibits never admitted into evidence. The exhibits referred to were Staff Exhibits marked for identification in the transcript of the proceeding as Nos. 1 through 21. We believe that in considering those exhibits in reaching our decision in this proceeding, we acted properly. The exhibits complained of were properly presented and supported by direct testimony. Petitioner cross-examined fully, as did protestants, without raising any substantial question as to their admissibility. In this context, a technical procedural oversight cannot prevent us from reaching a decision based on all the facts before us.

It should not be necessary to point out that we do not engage in adversary proceedings governed by strict rules of evidence. We consider proceedings before us to be a forum in which as much relevant material as possible is gathered for us to use in reaching a final decision on the issues in that proceeding. Before we base a decision on any evidence, we must determine for ourselves that it is competent, material and relevant; and if we find proffered evidence does not meet this standard, we will reject it whether or not a formal party raises an objection. Similarly, if we feel that additional evidence is necessary in a matter, we will cause it to become part of the record, whether or not a formal party desires its admission.

A procedural oversight by a party cannot preclude us from reaching what we consider a proper decision. Therefore, the staff's failure to move some of its exhibits into evidence cannot prevent us from reaching a decision based

in part on facts amply supported by direct testimony contained therein and subjected to cross-examination. We found the staff's exhibits to be competent, material and relevant, and as such admissible. In making that determination, we considered all questions raised about them on cross-examination.

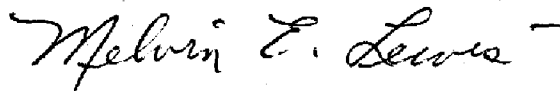
We do not claim, however, that our determinations are infallible. Petitioner does not raise in its petition for reconsideration, any grounds as to why the exhibits it challenges might have been inadmissible, but we assume that its mention of this issue was not frivolous. It is true that petitioner has not had a final opportunity to address itself to the admissibility of these exhibits, although in fact, such objections are proper at any time after the exhibits have been identified. Consequently, we will provide petitioner with an opportunity to present any objections which it might still have to the admission of Staff Exhibits Nos. 1 through 21. We wish to make it clear that we do not consider Order No. 1049 as being affected in any way by our present decision.

THEREFORE, IT IS ORDERED:

1. That WMA's petition for reconsideration of Order No. 1049 be, and it is hereby, denied, except as to the procedural question as to the admission of Staff Exhibits Nos. 1 through 21.

2. That a hearing be held on Tuesday, August 18, 1970, at 3:00 P. M. in the hearing room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C., to consider only the objections of the petitioner to the admissibility of Staff Exhibits Nos. 1 through 21.

BY DIRECTION OF THE COMMISSION:



MELVIN E. LEWIS  
Executive Director

